

By: Representative Banks

To: Public Health and  
Welfare; Judiciary B

HOUSE BILL NO. 1245

1 AN ACT TO AMEND SECTIONS 41-37-13, 41-61-65, 41-61-67,  
2 47-5-151 AND 99-41-15, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT  
3 PARENTS OF DECEASED PERSONS ON WHICH AN AUTOPSY IS PERFORMED SHALL  
4 BE PROVIDED A COPY OF THE AUTOPSY REPORT; AND FOR RELATED  
5 PURPOSES.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

7 SECTION 1. Section 41-37-13, Mississippi Code of 1972, is  
8 amended as follows:

9 41-37-13. In all cases where an autopsy is performed as  
10 provided in Section 41-37-9, the person making said autopsy shall  
11 file a report, in duplicate, of said autopsy with the circuit  
12 clerk of the county where the death is being investigated. Such  
13 circuit clerk shall keep and preserve said report and make it  
14 available to the district attorney, county prosecuting attorney,  
15 grand jury, coroner, \* \* \* the accused, and the parents of the  
16 deceased.

17 SECTION 2. Section 41-61-65, Mississippi Code of 1972, is  
18 amended as follows:

19 41-61-65. (1) If, in the opinion of the medical examiner  
20 investigating the case, it is advisable and in the public interest  
21 that an autopsy or other study be made for the purpose of  
22 determining the primary and/or contributing cause of death, an  
23 autopsy or other study shall be made by the State Medical Examiner  
24 or by a competent pathologist designated by the State Medical  
25 Examiner. The State Medical Examiner or designated pathologist  
26 may retain any tissues as needed for further postmortem studies or  
27 documentation. A complete autopsy report of findings and  
28 interpretations, prepared on forms designated for this purpose,

29 shall be submitted promptly to the State Medical Examiner. Copies  
30 of the report shall be furnished to the authorizing medical  
31 examiner, district attorney and court clerk. A copy of the report  
32 shall be furnished to one (1) adult member of the immediate family  
33 of the deceased or the legal representative or legal guardian of  
34 members of the immediate family of the deceased upon request, and  
35 if such adult member, legal guardian or legal representative is  
36 not a parent of the deceased, a copy shall be provided to the  
37 parents. In determining the need for an autopsy, the medical  
38 examiner may consider the request from the district attorney or  
39 county prosecuting attorney, law enforcement or other public  
40 officials or private persons. However, if the death occurred in  
41 the manner specified in subsection (2)(j) of Section 41-61-59, an  
42 autopsy shall be performed by the State Medical Examiner or his  
43 designated pathologist, and the report of findings shall be  
44 forwarded promptly to the State Medical Examiner, investigating  
45 medical examiner, the infant's attending physician and the local  
46 sudden infant death syndrome coordinator.

47 (2) Any medical examiner or duly licensed physician  
48 performing authorized investigations and/or autopsies as provided  
49 in Sections 41-61-51 through 41-61-79, who, in good faith,  
50 complies with the provisions of Sections 41-61-51 through  
51 41-61-79, in the determination of the cause and/or manner of death  
52 for the purpose of certification of that death, shall not be  
53 liable for damages on account thereof, and shall be immune from  
54 any civil liability that might otherwise be incurred or imposed.

55 (3) Family members or others who disagree with the medical  
56 examiner's determination shall be able to petition and present  
57 written argument to the State Medical Examiner for further review.  
58 If the petitioner still disagrees, he may petition the circuit  
59 court which may, in its discretion, hold a formal hearing. All  
60 cost of the petitioning and hearing shall be borne by the  
61 petitioner.

62 SECTION 3. Section 41-61-67, Mississippi Code of 1972, is  
63 amended as follows:

64 41-61-67. (1) In any case of death where the body is or has  
65 been buried without investigation by a medical examiner as to the  
66 cause and manner of death, or where sufficient cause develops for  
67 further investigation after a body has been buried as determined  
68 by a medical examiner, the State Medical Examiner shall authorize  
69 an investigation and send a report of the investigation with  
70 recommendations to the appropriate district attorney. The  
71 district attorney may forward the report to the circuit court  
72 having jurisdiction of the matter and petition the court for  
73 disinterment. The circuit judge may order that the body be  
74 exhumed and that an autopsy be performed by the State Medical  
75 Examiner. A report of the autopsy and other pathological studies  
76 shall be delivered to the judge and to the parents of the  
77 deceased. However, in cases of suspected homicide, the State  
78 Medical Examiner shall be able to authorize disinterment for the  
79 purposes of autopsy. The cost of the exhumation, autopsy,  
80 transportation and disposition of the body shall be paid by the  
81 county for which the service is provided.

82 (2) Any person may petition the circuit court for an order  
83 of exhumation. Upon a showing of sufficient cause, the court may  
84 order the body exhumed. The cost incurred shall be assigned to  
85 the petitioner.

86 SECTION 4. Section 47-5-151, Mississippi Code of 1972, is  
87 amended as follows:

88 47-5-151. The superintendent (warden) or other person in  
89 charge of prisoners, upon the death of any prisoner under his care  
90 and control, shall at once notify the county medical examiner or  
91 county medical examiner investigator (hereinafter "medical  
92 examiner") of the county in which said prisoner died, of the death  
93 of the prisoner, and it shall be the duty of such medical  
94 examiner, when so notified of the death of such person, to obtain

95 a court order and notify the State Medical Examiner of the death  
96 of such prisoner. It shall be mandatory that the State Medical  
97 Examiner cause an autopsy to be performed upon the body of the  
98 deceased prisoner. Furthermore, the State Medical Examiner shall  
99 investigate any case where a person is found dead on the premises  
100 of the correctional system, in accordance with Sections 41-61-51  
101 through 41-61-79. The State Medical Examiner shall make a written  
102 report of his investigation, and shall furnish a copy of the same,  
103 including the autopsy report, to the superintendent (warden) and a  
104 copy of the same to the district attorney of the county in which  
105 said prisoner died and to the parents of the deceased. The copy  
106 so furnished to the district attorney shall be turned over by the  
107 district attorney to the grand jury, and it shall be the duty of  
108 the grand jury, if there be any suspicion of wrongdoing shown by  
109 the inquest papers, to thoroughly investigate the cause of such  
110 death.

111 It shall be the duty of the medical examiner of the county in  
112 which said prisoner died to arrange for the remains to be  
113 transported to the State Medical Examiner for said autopsy, and  
114 accompanying the remains shall be the court order for autopsy and  
115 any documents or records pertaining to the deceased prisoner,  
116 institutional health records or other information relating to the  
117 circumstances surrounding the prisoner's death. The State Medical  
118 Examiner shall arrange for the remains to be transported to the  
119 county in which said prisoner died following completion of the  
120 autopsy. If the remains are not claimed for burial within  
121 forty-eight (48) hours after autopsy, then said remains may be  
122 delivered to the University of Mississippi Medical Center for use  
123 in medical research or anatomical study.

124 The provisions herein set forth in the first paragraph shall  
125 likewise apply to any case in which any person is found dead on  
126 the premises of the Mississippi State Penitentiary except that the  
127 autopsy to be performed on the body of such a person shall not be

128 mandatory upon a person who is not a prisoner unless the medical  
129 examiner determines that the death resulted from circumstances  
130 raising questions as to the cause of death, in which case the  
131 medical examiner may cause an autopsy to be performed upon the  
132 body of such deceased person in the same manner as authorized to  
133 be performed upon the body of a deceased prisoner.

134         Provided further, that the provisions herein shall apply with  
135 respect to any deceased prisoner who at the time of death is being  
136 detained by duly constituted state authority such as the Columbia  
137 Training School, Oakley Training School, Mississippi State  
138 Hospital at Whitfield, East Mississippi State Hospital, or any  
139 other state institution.

140         The provisions of this section shall not apply to a prisoner  
141 who was lawfully executed as provided in Sections 99-19-49 through  
142 99-19-55.

143         Any officer or employee of the prison system or any other  
144 officer, employee or person having charge of any prisoner who  
145 shall fail to immediately notify the medical examiner of the death  
146 of such prisoner, shall be guilty of a misdemeanor and, upon  
147 conviction thereof, shall be punished by a fine of not less than  
148 One Hundred Dollars (\$100.00) nor more than Five Hundred Dollars  
149 (\$500.00) and by confinement in the county jail for not more than  
150 one (1) year.

151         SECTION 5. Section 99-41-15, Mississippi Code of 1972, is  
152 amended as follows:

153         99-41-15. (1) Any person filing a claim under the  
154 provisions of this chapter shall be deemed to have waived any  
155 physician-patient privilege as to the communications or records  
156 relevant to an issue of the physical, mental or emotional  
157 conditions of the claimant. However, any record or report  
158 obtained by the director, the confidentiality of which is  
159 otherwise protected by any other law or regulation, shall remain  
160 confidential, subject to such law or regulation.

161           (2) If the mental, physical or emotional condition of a  
162 claimant is material to a claim, the director, upon good cause  
163 shown, may order the claimant to submit to a mental or physical  
164 examination and may order an autopsy of a deceased victim. The  
165 order shall specify the time, place, manner, conditions and scope  
166 of the examination or autopsy and the person by whom it is to be  
167 made. The order shall also require the person to file with the  
168 director a detailed written report of the examination or autopsy.  
169 The report shall set out the findings of the person making the  
170 report, including the results of all tests made, the diagnosis,  
171 prognosis and other conclusions and reports of earlier  
172 examinations of the same conditions.

173           (3) The director shall furnish a copy of the report  
174 examined. If the victim is deceased the director shall furnish a  
175 copy of the report to the claimant on request, and if the claimant  
176 is someone other than the parents of the deceased, the parents  
177 shall be provided a copy of the report.

178           (4) The director may require the claimant to supply any  
179 additional medical or psychological reports available relating to  
180 the injury or death for which compensation is claimed.

181           SECTION 6. This act shall take effect and be in force from  
182 and after July 1, 2001.